

1 Richard M. Heimann (State Bar No. 63607)  
2 Kelly M. Dermody (State Bar No. 171716)  
3 Brendan P. Glackin (State Bar No. 199643)  
4 Dean M. Harvey (State Bar No. 250298)  
5 Anne B. Shaver (State Bar No. 255928)  
6 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP  
7 275 Battery Street, 29th Floor  
8 San Francisco, CA 94111-3339  
9 Telephone: (415) 956-1000  
10 Facsimile: (415) 956-1008  
11

12 *Co-Lead Class Counsel*

13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN JOSE DIVISION  
16

17 IN RE: HIGH-TECH EMPLOYEE  
18 ANTITRUST LITIGATION

19 THIS DOCUMENT RELATES TO:  
20 ALL ACTIONS  
21

22 Master Docket No. 11-CV-2509-LHK

23 **DECLARATION OF DEAN M. HARVEY**  
24 **IN SUPPORT OF APPLICATION OF**  
25 **PLAINTIFFS FOR APPROVAL OF**  
26 **SERVICE AWARDS**  
27  
28

1 I, Dean M. Harvey, declare as follows:

2 1. I am an attorney licensed to practice in the Northern District of California. I am a  
3 partner at the firm of Lieff Cabraser Heimann & Bernstein, LLP (“LCHB”), Co-Lead Counsel for  
4 the Class Representatives and the proposed Settlement Class. I have personal knowledge of the  
5 facts set forth herein and could competently testify to them if called as a witness.

6 2. LCHB represented Brandon Marshall, one of the Class Representatives in this  
7 case, since he retained LCHB on May 27, 2011. I personally worked with Mr. Marshall on the  
8 filing of his complaint, responding to Defendants’ discovery requests, and preparing for his  
9 deposition, among other tasks.

10 3. Mr. Marshall died on December 10, 2013. Plaintiffs previously provided a true  
11 and correct copy of the affidavit of Laurel Bresaz, Mr. Marshall’s widow and the Personal  
12 Representative of his estate. (*See* Dkt. 726-1.)

13 **Protecting the Interests of the Class**

14 4. Mr. Marshall was employed by Defendant Adobe during the Class period. Before  
15 filing this lawsuit, Mr. Marshall became aware of agreements that Adobe and other Defendants  
16 entered into to eliminate competition for labor. He believed that he was harmed by such  
17 agreements, and that his compensation and those of other employees like him were artificially and  
18 unlawfully suppressed. He also believed that, without private plaintiffs willing to step forward  
19 and serve as Class Representatives, Defendants would not compensate their employees for the  
20 pay that was unlawfully denied them. *See* Declaration of Brandon Marshall In Support of  
21 Plaintiffs’ Motion for Class Certification (Dkt. No. 188-4).

22 5. Mr. Marshall retained LCHB to file a class action lawsuit on his behalf, and on  
23 behalf of a class of other similarly situated individuals, to hold Defendants accountable for their  
24 wrongful acts, to seek compensation for those the Defendants harmed, and to deter such  
25 misconduct in the future. That case was filed in California Superior Court, Santa Clara County,  
26 on June 28, 2011. The case was subsequently removed by Defendants to the United States  
27 District Court for the Northern District of California. On September 12, 2011, his case was  
28 consolidated with four other similar cases, and LCHB filed a Consolidated Amended Complaint

1 on September 13, 2011. (Dkt. 65.) On October 24, 2013, the Court certified the proposed Class  
2 and appointed Mr. Marshall as a Class Representative. (Dkt. 531.)

3 6. Mr. Marshall fulfilled the responsibilities of a Class Representative. He was  
4 actively involved in the litigation of this case, as described more fully below, and was in close  
5 contact with LCHB to monitor and contribute to this case throughout. On many occasions, he  
6 provided me and my colleagues with input and advice regarding various aspects of the litigation.  
7 He vigorously represented the Class's interests pursuant to his fiduciary duties to the Class he  
8 represented.

9 7. Mr. Marshall was not promised any amount of money to serve as a Class  
10 Representative.

11 **Benefits to the Class From Mr. Marshall's Actions as a Class Representative**

12 8. In his role as Class Representative, Mr. Marshall expended substantial time and  
13 effort (as more fully explained below) to perform actions that have benefited the Class at large.

14 9. Since he first retained LCHB, I estimate that Mr. Marshall spent well over 100  
15 hours fulfilling his role as a Class Representative in this case, including participating in discovery  
16 and mediation. A summary of his activities that I am personally aware of is as follows:

17 a. Meeting with and speaking with me and my colleagues at LCHB as part of  
18 the initial investigation of the case;

19 b. Preparing, reviewing, and finalizing his complaint;

20 c. Reviewing drafts of pleadings and other documents before authorizing me  
21 and my colleagues to file them and providing input on these key documents;

22 d. Gathering documents and other potential evidence about Defendants and  
23 about his claims to provide to LCHB and produce to Defendants, including providing documents  
24 and electronically stored information to support his claims and the Class's claims,<sup>1</sup> as well as

25 \_\_\_\_\_  
26 <sup>1</sup> Searching and producing both paper documents and electronically stored information was a  
27 substantial effort, and included third party sources of information, such as personal email  
28 services. Mr. Marshall's search and production was not limited by time or source of information,  
and the topics were broad in response to Defendants' discovery requests. He also assisted LCHB  
in reviewing his documents to understand their potential responsiveness to Defendants' discovery  
requests.

1 helping me and my colleagues understand Adobe practices and potential witnesses so we could  
2 formulate proper discovery requests;

3 e. Preparing, reviewing, finalizing, and verifying his responses to 16  
4 interrogatories, including updating several of his answers twice, at Defendants' request;

5 f. Reviewing documents produced by Defendants, and testimony from  
6 Defendants' witnesses, that relate to him, his claims, and the claims of the Class;

7 g. Reviewing expert work performed by experts retained by both the Class  
8 and by Defendants, and providing feedback to me and my colleagues;

9 h. Sitting for a full-day deposition taken by Defendants on October 29, 2012;

10 i. Preparing for the deposition with me and my colleagues;

11 j. Reviewing and correcting his deposition transcript following his  
12 deposition;

13 k. Discussing the strategy and progress of all mediations in the case, and  
14 participating in mediation; and

15 l. Participating in regular conversations with me and my colleagues at LCHB  
16 throughout the duration of this case, with some calls lasting over an hour and sometimes as often  
17 as several times a day, and additional communications by way of frequent and regular email  
18 correspondence.

### 19 **Reasonable Fears of Workplace Retaliation**

20 Mr. Marshall remained a part of the high-technology industry until the time of his death.  
21 Given this close-knit industry, and the prominence and power of the seven Defendants in this  
22 case, he took substantial risks in his own career by stepping forward as a Class Representative  
23 here. Further, during the course of this action, Defendants served 9 subpoenas on other (non-  
24 party) companies that had employed him, seeking essentially all information regarding nearly any  
25 aspect of his work for these employers, including his personnel files. He took the risk that other  
26 high-technology companies would not hire him or that clients might not want to work with him  
27 because he served as a Class Representative in this action.  
28

1 I declare under penalty of perjury under the laws of California and the United States that  
2 the foregoing is true and correct.

3  
4 Executed on May 7, 2015 in San Francisco, California.

5  
6   
7

8 \_\_\_\_\_  
Dean M. Harvey